



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

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ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು,
ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ
ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು
ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ
ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ
ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 20 ಕೇಶಾಪು 2021

ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 26.11.2021.

ದಿನಾಂಕ: 04.04.2021 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-
Section-1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE INSOLVENCY AND BANKRUPTCY CODE
(AMENDMENT) ORDINANCE, 2021 (NO. 3 OF 2021) ಮತ್ತು ಸದರಿ ಅಧ್ಯಾದೇಶಕ್ಕೆ
ಸಂಬಂಧಿಸಿದ ದಿನಾಂಕ: 05.04.2021ರ ಭಾರತ ಸರ್ಕಾರದ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಪ್ರಕಟಿಸಲ್ಪಟ್ಟಿರುವ
Corrigenda ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು
ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 4th April, 2021/Chaitra 14, 1943 (Saka)

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2021

NO. 3 OF 2021

Promulgated by the President in the Seventy-second Year
of the Republic of India.

*An Ordinance further to amend the Insolvency and
Bankruptcy Code, 2016.*

WHEREAS COVID-19 pandemic has impacted businesses, financial markets and economies all over the world, including India, and has impacted the business operations of micro, small and medium enterprises and exposed many of them to financial distress;

AND WHEREAS the Government has taken several measures to mitigate the distress caused by the pandemic, including increasing the minimum amount of default for initiation of corporate insolvency resolution process to one crore rupees, and suspending filing of applications for initiation of corporate insolvency resolution process in respect of the defaults arising during the period of one year beginning from 25th March 2020;

AND WHEREAS such suspension for filing of applications for initiation of corporate insolvency resolution process has ended on 24th March 2021;

AND WHEREAS the country has shown remarkable resilience, be it tackling the pandemic or ensuring economic recovery;

AND WHEREAS micro, small and medium enterprises are critical for India's economy as they contribute significantly to its gross domestic product and provide employment to a sizeable population;

AND WHEREAS it is considered necessary to urgently address the specific requirements of micro, small and medium enterprises relating to the resolution of their insolvency, due to the unique nature of their businesses and simpler corporate structures;

AND WHEREAS it is considered expedient to provide an efficient alternative insolvency resolution process for corporate persons classified as micro, small and medium enterprises under the Insolvency and Bankruptcy Code, 2016, ensuring quicker, cost-effective and value maximising outcomes for all the stakeholders, in a manner which is least disruptive to the continuity of their businesses and which preserves jobs;

AND WHEREAS in order to achieve these objectives, it is considered expedient to introduce a pre-packaged insolvency resolution process for corporate persons classified as micro, small and medium enterprises;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance: —

Short title and commencement.

1. (1) This Ordinance may be called the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021.

(2) It shall come into force at once.

Amendment of section 4.

2. In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 4, after the proviso, the following proviso shall be inserted, namely:—

31 of 2016.

“Provided further that the Central Government may, by notification, specify such minimum amount of default of higher value, which shall not be more than one crore rupees, for matters relating to the pre-packaged insolvency resolution process of corporate debtors under Chapter III-A.”.

3. In section 5 of the principal Act,—

Amendment of
section 5.

(i) after clause (2), the following clause shall be inserted, namely: —

“(2A) “base resolution plan” means a resolution plan provided by the corporate debtor under clause (c) of sub-section (4) of section 54A;”;

(ii) in clause (5), in sub-clause (b), after the words “corporate insolvency resolution process”, the words “or the pre-packaged insolvency resolution process, as the case may be,” shall be inserted;

(iii) in clause (11), after the words “corporate insolvency resolution process”, the words “or pre-packaged insolvency resolution process, as the case may be” shall be inserted;

(iv) in clause (15), after the words, “process period”, the words “or by the corporate debtor during the pre-packaged insolvency resolution process period, as the case may be,” shall be inserted;

(v) in clause (19), after the words “for the purposes of”, the words and figures “Chapter VI and” shall be inserted;

(vi) after clause (23), the following clauses shall be inserted, namely: —

“(23A) “preliminary information” means a memorandum submitted by the corporate debtor under clause (b) of sub-section (1) of section 54G;

(23B) “pre-packaged insolvency date” means the date of admission of an application for initiating the pre-packaged insolvency resolution process by the Adjudicating Authority under clause (a) of sub-section (4) of section 54C;

(23C) “pre-packaged insolvency resolution process costs” means—

(a) the amount of any interim finance and the costs incurred in raising such finance;

(b) the fees payable to any person acting as a resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process during the pre-packaged insolvency resolution process period, subject to sub-section (6) of section 54F;

(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern pursuant to an order under sub-section (2) of section 54J;

(d) any costs incurred at the expense of the Government to facilitate the pre-packaged insolvency resolution process; and

(e) any other costs as may be specified;

(23D) “pre-packaged insolvency resolution process period” means the period beginning from the pre-packaged insolvency commencement date and ending on the date on which an order under sub-section (1) of section 54L, or sub-section (1) of section 54N, or sub-section (2) of section 54-O, as the case may be, is passed by the Adjudicating Authority;’;

(vii) in clause (25), after the words, brackets and figures “of sub-section (2) of section 25”, the words, figures and letter “or pursuant to section 54K, as the case may be” shall be inserted;

(viii) in clause (27), after the words “corporate insolvency resolution process”, the words “or the pre-packaged insolvency resolution process, as the case may be,” shall be inserted.

Amendment of
section 11.

4. In section 11 of the principal Act,—

(i) in clause (a), after the words “corporate insolvency resolution process”, the words “or a pre-packaged insolvency resolution process” shall be inserted;

(ii) after clause (a), the following clause shall be inserted, namely:—

“(aa) a financial creditor or an operational creditor of a corporate debtor undergoing a pre-packaged insolvency resolution process; or”;

(iii) after clause (b), the following clause shall be inserted, namely:—

“(ba) a corporate debtor in respect of whom a resolution plan has been approved under Chapter III-A, twelve months preceding the date of making of the application; or”.

5. After section 11 of the principal Act, the following section shall be inserted, namely: —

Insertion of new section 11A.

“11A. (1) Where an application filed under section 54C is pending, the Adjudicating Authority shall pass an order to admit or reject such application, before considering any application filed under section 7 or section 9 or section 10 during the pendency of such application under section 54C, in respect of the same corporate debtor.

Disposal of applications under section 54C and under section 7 or section 9 or section 10.

(2) Where an application under section 54C is filed within fourteen days of filing of any application under section 7 or section 9 or section 10, which is pending, in respect of the same corporate debtor, then, notwithstanding anything contained in sections 7, 9 and 10, the Adjudicating Authority shall first dispose of the application under section 54C.

(3) Where an application under section 54C is filed after fourteen days of the filing of any application under section 7 or section 9 or section 10, in respect of the same corporate debtor, the Adjudicating Authority shall first dispose of the application under sections 7, 9 or 10.

(4) The provisions of this section shall not apply where an application under section 7 or section 9 or section 10 is filed and pending as on the date of the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021.”.

6. In section 33 of the principal Act, in sub-section (3), after the words, “approved by the Adjudicating Authority”, the words, figures, brackets and letter “under

Amendment of section 33.

section 31 or under sub-section (1) of section 54L,” shall be inserted.

Amendment of section 34.

7. In section 34 of the principal Act, in sub-section (1), after the words and figures, “under Chapter II”, the words, figures and letter “or for the pre-packaged insolvency resolution process under Chapter III-A” shall be inserted.

Insertion of new Chapter III-A.

8. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

‘CHAPTER III-A

PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS

Corporate debtors eligible for pre-packaged insolvency resolution process.

54A.(1) An application for initiating pre-packaged insolvency resolution process may be made in respect of a corporate debtor classified as a micro, small or medium enterprise under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006. 27 of 2006.

(2) Without prejudice to sub-section (1), an application for initiating pre-packaged insolvency resolution process may be made in respect of a corporate debtor, who commits a default referred to in section 4, subject to the following conditions, that—

(a) it has not undergone pre-packaged insolvency resolution process or completed corporate insolvency resolution process, as the case may be, during the period of three years preceding the initiation date;

(b) it is not undergoing a corporate insolvency resolution process;

(c) no order requiring it to be liquidated is passed under section 33;

(d) it is eligible to submit a resolution plan under section 29A;

(e) the financial creditors of the corporate debtor, not being its related parties, representing such number and such manner as may be specified, have proposed the name of the insolvency professional to be appointed as resolution professional for conducting the pre-packaged

insolvency resolution process of the corporate debtor, and the financial creditors of the corporate debtor, not being its related parties, representing not less than sixty-six per cent. in value of the financial debt due to such creditors, have approved such proposal in such form as may be specified:

Provided that where a corporate debtor does not have any financial creditors, not being its related parties, the proposal and approval under this clause shall be provided by such persons as may be specified;

(f) the majority of the directors or partners of the corporate debtor, as the case may be, have made a declaration, in such form as may be specified, stating, *inter alia*, —

(i) that the corporate debtor shall file an application for initiating pre-packaged insolvency resolution process within a definite time period not exceeding ninety days;

(ii) that the pre-packaged insolvency resolution process is not being initiated to defraud any person; and

(iii) the name of the insolvency professional proposed and approved to be appointed as resolution professional under clause (e);

(g) the members of the corporate debtor have passed a special resolution, or at least three-fourth of the total number of partners, as the case may be, of the corporate debtor have passed a resolution, approving the filing of an application for initiating pre-packaged insolvency resolution process.

(3) The corporate debtor shall obtain an approval from its financial creditors, not being its related parties, representing not less than sixty-six per cent. in value of the financial debt due to such creditors, for the filing of an application for initiating pre-packaged insolvency resolution process, in such form as may be specified:

Provided that where a corporate debtor does not have any financial creditors, not being its related parties, the approval under this sub-section shall be provided by such persons as may be specified.

(4) Prior to seeking approval from financial creditors under sub-section (3), the corporate debtor shall provide such financial creditors with —

(a) the declaration referred to in clause (f) of sub-section (2);

(b) the special resolution or resolution referred to in clause (g) of sub-section (2);

(c) a base resolution plan which conforms to the requirements referred to in section 54K, and such other conditions as may be specified; and

(d) such other information and documents as may be specified.

Duties of
resolution
professional
before initiation
of pre-packaged
insolvency
resolution
process.

54B. (1) The insolvency professional, proposed to be appointed as the resolution professional, shall have the following duties commencing from the date of the approval under clause (e) of sub-section (2) of section 54A, namely:—

(a) prepare a report in such form as may be specified, confirming whether the corporate debtor meets the requirements of section 54A, and the base resolution plan conforms to the requirements referred to in clause (c) of sub-section (4) of section 54A;

(b) file such reports and other documents, with the Board, as may be specified; and

(c) perform such other duties as may be specified.

(2) The duties of the insolvency professional under sub-section (1) shall cease, if, —

(a) the corporate debtor fails to file an application for initiating pre-packaged insolvency resolution process within the time period as stated under the declaration referred to in clause (f) of sub-section (2) of section 54A; or

(b) the application for initiating pre-packaged insolvency resolution process is admitted or rejected by the Adjudicating Authority,

as the case may be.

(3) The fees payable to the insolvency professional in relation to the duties performed under sub-section (1) shall be determined and borne in such manner as may be specified and such fees shall form part of the pre-packaged insolvency resolution process costs, if the application for initiation of pre-packaged insolvency resolution process is admitted.

54C. (1) Where a corporate debtor meets the requirements of section 54A, a corporate applicant thereof may file an application with the Adjudicating Authority for initiating pre-packaged insolvency resolution process.

Application to initiate pre-packaged insolvency resolution process.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars, in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application, furnish—

(a) the declaration, special resolution or resolution, as the case may be, and the approval of financial creditors for initiating pre-packaged insolvency resolution process in terms of section 54A;

(b) the name and written consent, in such form as may be specified, of the insolvency professional proposed to be appointed as resolution professional, as approved under clause (e) of sub-section (2) of section 54A, and his report as referred to in clause (a) of sub-section (1) of section 54B;

(c) a declaration regarding the existence of any transactions of the corporate debtor that may be within the scope of provisions in respect of avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, in such form as may be specified;

(d) information relating to books of account of the corporate debtor and such other documents relating to such period as may be specified.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order,—

(a) admit the application, if it is complete; or

(b) reject the application, if it is incomplete:

Provided that the Adjudicating Authority shall, before rejecting an application, give notice to the applicant to rectify the defect in the application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The pre-packaged insolvency resolution process shall commence from the date of admission of the application under clause (a) of sub-section (4).

Time-limit for completion of pre-packaged insolvency resolution process.

54D. (1) The pre-packaged insolvency resolution process shall be completed within a period of one hundred and twenty days from the pre-packaged insolvency commencement date.

(2) Without prejudice to sub-section (1), the resolution professional shall submit the resolution plan, as approved by the committee of creditors, to the Adjudicating Authority under sub-section (4) or sub-section (12), as the case may be, of section 54K, within a period of ninety days from the pre-packaged insolvency commencement date.

(3) Where no resolution plan is approved by the committee of creditors within the time period referred to in sub-section (2), the resolution professional shall, on the day after the expiry of such time period, file an application with the Adjudicating Authority for termination of the pre-packaged insolvency resolution process in such form and manner as may be specified.

Declaration of moratorium and public announcement during pre-packaged insolvency resolution process.

54E. (1) The Adjudicating Authority shall, on the pre-packaged insolvency commencement date, along with the order of admission under section 54C —

(a) declare a moratorium for the purposes referred to in sub-section (1) read with sub-section (3) of section 14, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter;

(b) appoint a resolution professional —

(i) as named in the application, if no disciplinary proceeding is pending against him; or

(ii) based on the recommendation made by the Board, if any disciplinary proceeding is pending against the insolvency professional named in the application.

(c) cause a public announcement of the initiation of the pre-packaged insolvency resolution process to be made by the resolution professional, in such form and manner as may be specified, immediately after his appointment.

(2) The order of moratorium shall have effect from the date of such order till the date on which the pre-packaged insolvency resolution process period comes to an end.

54F. (1) The resolution professional shall conduct the pre-packaged insolvency resolution process of a corporate debtor during the pre-packaged insolvency resolution process period.

Duties and powers of resolution professional during pre-packaged insolvency resolution process.

(2) The resolution professional shall perform the following duties, namely:—

(a) confirm the list of claims submitted by the corporate debtor under section 54G, in such manner as may be specified;

(b) inform creditors regarding their claims as confirmed under clause (a), in such manner as may be specified;

(c) maintain an updated list of claims, in such manner as may be specified;

(d) monitor management of the affairs of the corporate debtor;

(e) inform the committee of creditors in the event of breach of any of the obligations of the Board of Directors or partners, as the case may be, of the corporate debtor, under the provisions of this Chapter and the rules and regulations made thereunder;

(f) constitute the committee of creditors and convene and attend all its meetings;

(g) prepare the information memorandum on the basis of the preliminary information memorandum submitted under section 54G and any other relevant information, in such form and manner as may be specified;

(h) file applications for avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, if any; and

(i) such other duties as may be specified.

(3) The resolution professional shall exercise the following powers, namely:—

(a) access all books of accounts, records and information available with the corporate debtor;

(b) access the electronic records of the corporate debtor from an information utility having financial information of the corporate debtor;

(c) access the books of accounts, records and other relevant documents of the corporate debtor available with Government authorities, statutory auditors, accountants and such other persons as may be specified;

(d) attend meetings of members, Board of Directors and committee of directors, or partners, as the case may be, of the corporate debtor;

(e) appoint accountants, legal or other professionals in such manner as may be specified;

(f) collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor and the existence of any transactions that may be within the scope of provisions relating to avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, including information relating to —

(i) business operations for the previous two years from the date of pre-packaged insolvency commencement date;

(ii) financial and operational payments for

the previous two years from the date of pre-packaged insolvency commencement date;

(iii) list of assets and liabilities as on the initiation date; and

(iv) such other matters as may be specified;

(g) take such other actions in such manner as may be specified.

(4) From the date of appointment of the resolution professional, the financial institutions maintaining accounts of the corporate debtor shall furnish all information relating to the corporate debtor available with them to the resolution professional, as and when required by him.

(5) The personnel of the corporate debtor, its promoters and any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the resolution professional as may be required by him to perform his duties and exercise his powers, and for such purposes, the provisions of sub-sections (2) and (3) of section 19 shall, *mutatis mutandis* apply, in relation to the proceedings under this Chapter.

(6) The fees of the resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process shall be determined in such manner as may be specified:

Provided that the committee of creditors may impose limits and conditions on such fees and expenses:

Provided further that the fees and expenses for the period prior to the constitution of the committee of creditors shall be subject to ratification by it.

(7) The fees and expenses referred to in sub-section (6) shall be borne in such manner as may be specified.

54G. (1) The corporate debtor shall, within two days of the pre-packaged insolvency commencement date, submit to the resolution professional the following information, updated as on that date, in such form and manner as may be specified, namely:—

List of claims and preliminary information memorandum.

(a) a list of claims, along with details of the respective creditors, their security interests and

guarantees, if any; and

(b) a preliminary information memorandum containing information relevant for formulating a resolution plan.

(2) Where any person has sustained any loss or damage as a consequence of the omission of any material information or inclusion of any misleading information in the list of claims or the preliminary information memorandum submitted by the corporate debtor, every person who—

(a) is a promoter or director or partner of the corporate debtor, as the case may be, at the time of submission of the list of claims or the preliminary information memorandum by the corporate debtor; or

(b) has authorised the submission of the list of claims or the preliminary information memorandum by the corporate debtor,

shall, without prejudice to section 77A, be liable to pay compensation to every person who has sustained such loss or damage.

(3) No person shall be liable under sub-section (2), if the list of claims or the preliminary information memorandum was submitted by the corporate debtor without his knowledge or consent.

(4) Subject to section 54E, any person, who sustained any loss or damage as a consequence of omission of material information or inclusion of any misleading information in the list of claims or the preliminary information memorandum shall be entitled to move a court having jurisdiction for seeking compensation for such loss or damage.

Management of
affairs of
corporate debtor.

54H. During the pre-packaged insolvency resolution process period,—

(a) the management of the affairs of the corporate debtor shall continue to vest in the Board of Directors or the partners, as the case may be, of the corporate debtor, subject to such conditions as may be specified;

(b) the Board of Directors or the partners, as the

case may be, of the corporate debtor, shall make every endeavour to protect and preserve the value of the property of the corporate debtor, and manage its operations as a going concern; and

(c) the promoters, members, personnel and partners, as the case may be, of the corporate debtor, shall exercise and discharge their contractual or statutory rights and obligations in relation to the corporate debtor, subject to the provisions of this Chapter and such other conditions and restrictions as may be prescribed.

54-I. (1) The resolution professional shall, within seven days of the pre-packaged insolvency commencement date, constitute a committee of creditors, based on the list of claims confirmed under clause (a) of sub-section (2) of section 54F:

Committee of creditors.

Provided that the composition of the committee of creditors shall be altered on the basis of the updated list of claims, in such manner as may be specified, and any such alteration shall not affect the validity of any past decision of the committee of creditors.

(2) The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.

(3) Provisions of section 21, except sub-section (1) thereof, shall, *mutatis mutandis* apply, in relation to the committee of creditors under this Chapter:

Provided that for the purposes of this sub-section, references to the "resolution professional" under sub-sections (9) and (10) of section 21, shall be construed as references to "corporate debtor or the resolution professional".

54J. (1) Where the committee of creditors, at any time during the pre-packaged insolvency resolution process period, by a vote of not less than sixty-six per cent. of the voting shares, resolves to vest the management of the corporate debtor with the resolution professional, the resolution professional shall make an application for this purpose to the Adjudicating Authority, in such form and manner as may be specified.

Vesting management of corporate debtor with resolution professional.

(2) On an application made under sub-section (1), if the Adjudicating Authority is of the opinion that

during the pre-packaged insolvency resolution process—

(a) the affairs of the corporate debtor have been conducted in a fraudulent manner; or

(b) there has been gross mismanagement of the affairs of the corporate debtor,

it shall pass an order vesting the management of the corporate debtor with the resolution professional.

(3) Notwithstanding anything to the contrary contained in this Chapter, the provisions of —

(a) sub-sections (2) and (2A) of section 14;

(b) section 17;

(c) clauses (e) to (g) of section 18;

(d) sections 19 and 20;

(e) sub-section (1) of section 25;

(f) clauses (a) to (c) and clause (k) of sub-section (2) of section 25; and

(g) section 28,

shall, *mutatis mutandis* apply, to the proceedings under this Chapter, from the date of the order under sub-section (2), until the pre-packaged insolvency resolution process period comes to an end.

Consideration
and approval of
resolution plan.

54K. (1) The corporate debtor shall submit the base resolution plan, referred to in clause (c) of sub-section (4) of section 54A, to the resolution professional within two days of the pre-packaged insolvency commencement date, and the resolution professional shall present it to the committee of creditors.

(2) The committee of creditors may provide the corporate debtor an opportunity to revise the base resolution plan prior to its approval under sub-section (4) or invitation of prospective resolution applicants under sub-section (5), as the case may be.

(3) The resolution plans and the base resolution plan, submitted under this section shall conform to the requirements referred to in sub-sections (1) and (2) of section 30, and the provisions of sub-sections (1), (2) and (5) of section 30 shall, *mutatis mutandis* apply, to

the proceedings under this Chapter.

(4) The committee of creditors may approve the base resolution plan for submission to the Adjudicating Authority if it does not impair any claims owed by the corporate debtor to the operational creditors.

(5) Where —

(a) the committee of creditors does not approve the base resolution plan under sub-section (4); or

(b) the base resolution plan impairs any claims owed by the corporate debtor to the operational creditors,

the resolution professional shall invite prospective resolution applicants to submit a resolution plan or plans, to compete with the base resolution plan, in such manner as may be specified.

(6) The resolution applicants submitting resolution plans pursuant to invitation under sub-section (5), shall fulfil such criteria as may be laid down by the resolution professional with the approval of the committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified.

(7) The resolution professional shall provide to the resolution applicants, —

(a) the basis for evaluation of resolution plans for the purposes of sub-section (9), as approved by the committee of creditors subject to such conditions as may be specified; and

(b) the relevant information referred to in section 29, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter,

in such manner as may be specified.

(8) The resolution professional shall present to the committee of creditors, for its evaluation, resolution plans which conform to the requirements referred to in sub-section (2) of section 30.

(9) The committee of creditors shall evaluate the resolution plans presented by the resolution professional and select a resolution plan from amongst them.

(10) Where, on the basis of such criteria as may be laid down by it, the committee of creditors decides that the resolution plan selected under sub-section (9) is significantly better than the base resolution plan, such resolution plan may be selected for approval under sub-section (12):

Provided that the criteria laid down by the committee of creditors under this sub-section shall be subject to such conditions as may be specified.

(11) Where the resolution plan selected under sub-section (9) is not considered for approval or does not fulfil the requirements of sub-section (10), it shall compete with the base resolution plan, in such manner and subject to such conditions as may be specified, and one of them shall be selected for approval under sub-section (12).

(12) The resolution plan selected for approval under sub-section (10) or sub-section (11), as the case may be, may be approved by the committee of creditors for submission to the Adjudicating Authority:

Provided that where the resolution plan selected for approval under sub-section (11) is not approved by the committee of creditors, the resolution professional shall file an application for termination of the pre-packaged insolvency resolution process in such form and manner as may be specified.

(13) The approval of the resolution plan under sub-section (4) or sub-section (12), as the case may be, by the committee of creditors, shall be by a vote of not less than sixty-six per cent. of the voting shares, after considering its feasibility and viability, the manner of distribution proposed, taking into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor and such other requirements as may be specified.

(14) While considering the feasibility and viability of a resolution plan, where the resolution plan submitted by the corporate debtor provides for impairment of any claims owed by the corporate debtor, the committee of creditors may require the promoters of the corporate debtor to dilute their shareholding or voting or control rights in the corporate debtor:

Provided that where the resolution plan does not provide for such dilution, the committee of creditors shall, prior to the approval of such resolution plan under sub-section (4) or sub-section (12), as the case may be, record reasons for its approval.

(15) The resolution professional shall submit the resolution plan as approved by the committee of creditors under sub-section (4) or sub-section (12), as the case may be, to the Adjudicating Authority.

Explanation I.—For the removal of doubts, it is hereby clarified that, the corporate debtor being a resolution applicant under clause (25) of section 5, may submit the base resolution plan either individually or jointly with any other person.

Explanation II.—For the purposes of sub-sections (4) and (14), claims shall be considered to be impaired where the resolution plan does not provide for the full payment of the confirmed claims as per the updated list of claims maintained by the resolution professional.

54L. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) or sub-section (12) of section 54K, as the case may be, subject to the conditions provided therein, meets the requirements as referred to in sub-section (2) of section 30, it shall, within thirty days of the receipt of such resolution plan, by order approve the resolution plan:

Approval of
resolution plan.

Provided that the Adjudicating Authority shall, before passing an order for approval of a resolution plan under this sub-section, satisfy itself that the resolution plan has provisions for its effective implementation.

(2) The order of approval under sub-section (1) shall have such effect as provided under sub-sections (1), (3) and (4) of section 31, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter.

(3) Where the Adjudicating Authority is satisfied that the resolution plan does not conform to the requirements referred to in sub-section (1), it may, within thirty days of the receipt of such resolution plan, by an order, reject the resolution plan and pass an order under section 54N.

(4) Notwithstanding anything to the contrary

contained in this section, where the Adjudicating Authority has passed an order under sub-section (2) of section 54J and the resolution plan approved by the committee of creditors under sub-section (4) or sub-section (12), as the case may be, of section 54K, does not result in the change in the management or control of the corporate debtor to a person who was not a promoter or in the management or control of the corporate debtor, the Adjudicating Authority shall pass an order —

(a) rejecting such resolution plan;

(b) terminating the pre-packaged insolvency resolution process and passing a liquidation order in respect of the corporate debtor as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of section 33; and

(c) declaring that the pre-packaged insolvency resolution process costs, if any, shall be included as part of the liquidation costs for the purposes of liquidation of the corporate debtor.

Appeal against
order under
section 54L.

54M. Any appeal from an order approving the resolution plan under sub-section (1) of section 54L, shall be on the grounds laid down in sub-section (3) of section 61.

Termination of
pre-packaged
insolvency
resolution
process.

54N. (1) Where the resolution professional files an application with the Adjudicating Authority, —

(a) under the proviso to sub-section (12) of section 54K; or

(b) under sub-section (3) of section 54D,

the Adjudicating Authority shall, within thirty days of the date of such application, by an order, —

(i) terminate the pre-packaged insolvency resolution process; and

(ii) provide for the manner of continuation of proceedings initiated for avoidance of transactions under Chapter III or proceedings initiated under section 66 and section 67A, if any.

(2) Where the resolution professional, at any time after the pre-packaged insolvency commencement date, but before the approval of resolution plan under sub-section (4) or sub-section (12), as the case may be, of section 54K, intimates the Adjudicating Authority of the decision of the committee of creditors, approved by a vote of sixty-six per cent. of the voting shares, to terminate the pre-packaged insolvency resolution process, the Adjudicating Authority shall pass an order under sub-section (1).

(3) Where the Adjudicating Authority passes an order under sub-section (1), the corporate debtor shall bear the pre-packaged insolvency resolution process costs, if any.

(4) Notwithstanding anything to the contrary contained in this section, where the Adjudicating Authority has passed an order under sub-section (2) of section 54J and the pre-packaged insolvency resolution process is required to be terminated under sub-section (1), the Adjudicating Authority shall pass an order —

(a) of liquidation in respect of the corporate debtor as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of section 33; and

(b) declare that the pre-packaged insolvency resolution process costs, if any, shall be included as part of the liquidation costs for the purposes of liquidation of the corporate debtor.

54-O. (1) The committee of creditors, at any time after the pre-packaged insolvency commencement date but before the approval of resolution plan under sub-section (4) or sub-section (12), as the case may be, of section 54K, by a vote of sixty-six per cent. of the voting shares, may resolve to initiate a corporate insolvency resolution process in respect of the corporate debtor, if such corporate debtor is eligible for corporate insolvency resolution process under Chapter II.

Initiation of
corporate
insolvency
resolution
process.

(2) Notwithstanding anything to the contrary contained in Chapter II, where the resolution professional intimates the Adjudicating Authority of the decision of the committee of creditors under sub-section (1), the Adjudicating Authority shall, within thirty days of the date of such intimation, pass an order to —

(a) terminate the pre-packaged insolvency

resolution process and initiate corporate insolvency resolution process under Chapter II in respect of the corporate debtor;

(b) appoint the resolution professional referred to in under clause (b) of sub-section (1) of section 54E as the interim resolution professional, subject to submission of written consent by such resolution professional to the Adjudicatory Authority in such form as may be specified; and

(c) declare that the pre-packaged insolvency resolution process costs, if any, shall be included as part of insolvency resolution process costs for the purposes of the corporate insolvency resolution process of the corporate debtor.

(3) Where the resolution professional fails to submit written consent under clause (b) of sub-section (2), the Adjudicating Authority shall appoint an interim resolution professional by making a reference to the Board for recommendation, in the manner as provided under section 16.

(4) Where the Adjudicating Authority passes an order under sub-section (2) —

(a) such order shall be deemed to be an order of admission of an application under section 7 and shall have the same effect;

(b) the corporate insolvency resolution process shall commence from the date of such order;

(c) the proceedings initiated for avoidance of transactions under Chapter III or proceedings initiated under section 66 and section 67A, if any, shall continue during the corporate insolvency resolution process;

(d) for the purposes of sections 43, 46 and 50, references to “insolvency commencement date” shall mean “pre-packaged insolvency commencement date”; and

(e) in computing the relevant time or the period for avoidable transactions, the time-period for the duration of the pre-packaged insolvency resolution process shall also be included, notwithstanding anything to the contrary contained in sections 43, 46 and 50.

54P. (1) Save as provided under this Chapter, the provisions of sections 24, 25A, 26, 27, 28, 29A, 32A, 43 to 51, and the provisions of Chapters VI and VII of this Part shall, *mutatis mutandis* apply, to the pre-packaged insolvency resolution process, subject to the following, namely:—

Application of provisions of Chapters II, III, VI, and VII to this Chapter.

(a) reference to “members of the suspended Board of Directors or the partners” under clause (b) of sub-section (3) of section 24 shall be construed as reference to “members of the Board of Directors or the partners, unless an order has been passed by the Adjudicating Authority under section 54J”;

(b) reference to “clause (j) of sub-section (2) of section 25” under section 26 shall be construed as reference to “clause (h) of sub-section (2) of section 54F”;

(c) reference to “section 16” under section 27 shall be construed as reference to “section 54E”;

(d) reference to “resolution professional” in sub-sections (1) and (4) of section 28 shall be construed as “corporate debtor”;

(e) reference to “section 31” under sub-section (3) of section 61 shall be construed as reference to “sub-section (1) of section 54L”;

(f) reference to “section 14” in sub-sections (1) and (2) of section 74 shall be construed as reference to “clause (a) of sub-section (1) of section 54E”;

(g) reference to “section 31” in sub-section (3) of section 74 shall be construed as reference to “sub-section (1) of section 54L”.

(2) Without prejudice to the provisions of this Chapter and unless the context otherwise requires, where the provisions of Chapters II, III, VI and VII are applied to the proceedings under this Chapter, references to —

(a) “insolvency commencement date” shall be construed as references to “pre-packaged insolvency commencement date”;

(b) “resolution professional” or “interim resolution professional”, as the case may be, shall be construed as references to the resolution

professional appointed under this Chapter;

(c) “corporate insolvency resolution process” shall be construed as references to “pre-packaged insolvency resolution process”; and

(d) “insolvency resolution process period” shall be construed as references to “pre-packaged insolvency resolution process period.”.

Amendment of section 61.

9. In section 61 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) An appeal against a liquidation order passed under section 33, or sub-section (4) of section 54L, or sub-section (4) of section 54N, may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.

(5) An appeal against an order for initiation of corporate insolvency resolution process passed under sub-section (2) of section 54-O may be filed on grounds of material irregularity or fraud committed in relation to such an order.”.

Amendment of section 65.

10. In section 65 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely: —

“(3) If, any person initiates the pre-packaged insolvency resolution process—

(a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or

(b) with the intent to defraud any person,

the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.”.

Insertion of new section 67A.

11. After section 67 of the principal Act, the following section shall be inserted, namely:—

Fraudulent management of corporate debtor during pre-packaged insolvency resolution process.

“67A. On and after the pre-packaged insolvency commencement date, where an officer of the corporate debtor manages its affairs with the intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may, on an application by the resolution professional, pass an order imposing upon any such officer, a penalty which

shall not be less than one lakh rupees, but may extend to one crore rupees.”.

12. In section 77 of the principal Act, the *Explanation* shall be omitted.

Omission of *Explanation* to section 77.

13. After section 77 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 77A.

“77A. (1) Where—

Punishment for offences related to pre-packaged insolvency resolution process.

(a) a corporate debtor provides any information in the application under section 54C which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material; or

(b) a corporate debtor provides any information in the list of claims or the preliminary information memorandum submitted under sub-section (1) of section 54G which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material; or

(c) any person who knowingly and wilfully authorised or permitted the furnishing of such information under sub-clauses (a) and (b),

such corporate debtor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both.

(2) If a director or partner of the corporate debtor, as the case may be, deliberately contravenes the provisions of Chapter III-A, such person shall be punishable with imprisonment for not less than three years, but which may extend to five years, or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both.

Explanation.—For the purposes of this section, and sections 75, 76 and 77, an application shall be deemed to be false in material particulars in case the facts

mentioned or omitted in the application, if true, or not omitted from the application as the case may be, would have been sufficient to determine the existence of a default under this Code.”.

Amendment of
section 208.

14. In section 208 of the principal Act,—

(i) after clause (c), the following clause shall be inserted, namely:—

“(ca) pre-packaged insolvency resolution process under Chapter III-A of Part II;”;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where the name of the insolvency professional proposed to be appointed as a resolution professional, is approved under clause (e) of sub-section (2) of section 54A, it shall be the function of such insolvency professional to take such actions as may be necessary to perform his functions and duties prior to the initiation of the pre-packaged insolvency resolution process under Chapter III-A of Part II.”.

Amendment of
section 239.

15. In section 239 of the principal Act, in sub-section (2), after clause (fc), the following clauses shall be inserted, namely:—

“(fd) the form, particulars, manner and fee for making application before the Adjudicating Authority under sub-section (2) of section 54C;

(fe) the conditions and restrictions with which the promoters, members, personnel and partners of the corporate debtor shall exercise and discharge contractual or statutory rights and obligations under clause (c) of section 54H;”.

Amendment of
section 240.

16. In section 240 of the principal Act, in sub-section (2),—

(i) after clause (e), the following clause shall be inserted, namely:—

“(ea) the other costs under sub-clause (e) of clause (23C) of section 5;”;

(ii) after clause (zk), the following clauses shall be inserted, namely:—

“(zka) such number of financial creditors and the manner of proposing the insolvency professional, and the form for approving such insolvency professional by the financial creditors under clause (e), the persons who shall provide approval under the proviso to clause (e), the form for making a declaration under clause (f) of sub-section (2) of section 54A;

(zkb) the form for obtaining approval from financial creditors under sub-section (3), and the persons who shall provide approval under the proviso to sub-section (3) of section 54A;

(zkc) the other conditions for the base resolution plan under clause (c), and such information and documents under clause (d) of sub-section (4) of section 54A;

(zkd) the form in which the report is to be prepared under clause (a), such reports and other documents under clause (b), and such other duties under clause (c) of sub-section (1), and the manner of determining the fees under sub-section (3) of section 54B;

(zke) the form for providing written consent of the insolvency professional under clause (b), the form for declaration under clause (c), the information relating to books of account and such other documents relating to such period under clause (d) of sub-section (3) of section 54C;

(zkf) the form and manner for making application for termination of the pre-packaged insolvency resolution process under sub-section (3) of section 54D;

(zkg) the form and manner of making public announcement under clause (c) of sub-section (1) of section 54E;

(zkh) the manner of confirming the list of claims under clause (a), the manner of informing creditors under clause (b), the manner of maintaining an updated list of claims under clause (c), the form and manner of preparing the information memorandum under clause (g), and such other duties under clause (i) of sub-section (2) of section 54F;

(zki) such other persons under clause (c), the manner of appointing accountants, legal or other professionals under clause (e), such other matters under sub-clause (iv) of clause (f) and the manner of taking other actions under clause (g) of sub-section (3) of section 54F;

(zkj) the manner of determination of fees and expenses as may be incurred by the resolution professional under sub-section (6) of section 54F;

(zkk) manner of bearing fees and expenses under sub-section (7) of section 54F;

(zkl) the form and manner of list of claims and preliminary information memorandum under sub-section (1) of section 54G;

(zkm) the conditions under clause (a) of section 54H;

(zkn) the manner of alteration of the composition of the committee of creditors under the proviso to sub-section (1) of section 54I;

(zko) the form and manner of making application under sub-section (1) of section 54J;

(zkp) the manner of inviting prospective resolution applicants under sub-section (5) of section 54K;

(zkq) other conditions under sub-section (6) of section 54K;

(zkr) the conditions under clause (a) and the manner of providing the basis for evaluation of resolution plans and the information referred to in section 29 under sub-section (7) of section 54K;

(zks) the conditions under the proviso to sub-section (10) of section 54K;

(zkt) the manner and conditions under sub-section (11) of section 54K;

(zku) the form and manner of filing application under the proviso to sub-section (12) of section 54K;

(zkv) other requirements under sub-section (13) of section 54K;

(zkw) the form for submission of written consent under clause (b) of sub-section (2) of section 54-O;”.

17. In section 240A of the principal Act, in sub-section (1), after the words “corporate insolvency resolution process”, the words “or pre-packaged insolvency resolution process” shall be inserted. Amendment of section 240A.

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5th April, 2021/ Chaitra 15, 1943 (Saka)

CORRIGENDA

In the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 (Ord. 3 of 2021), published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 4th April, 2021, Issue No. 21,--

- (i) in page 3, line 31, for "preliminary information", read "preliminary information memorandum";
- (ii) in page 3, line 34, for "insolvency date", read "insolvency commencement date";
- (iii) in page 22, line 5, for "in under clause (b)", read "in clause (b)";
- (iv) in page 27, line 20, for "cause (c)", read "clause (c)".

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಆರ್. ಶ್ರೀನಿವಾಸ)
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು
ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

PR-104

**ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ
ಅಧಿಸೂಚನೆ**

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 21 ಕೇಶಾಪು 2021

ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 26.11.2021.

ದಿನಾಂಕ: 13.04.2021 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ Part-II-
Section-1ರಲ್ಲಿ ಪ್ರಕಟವಾದ THE COMMISSION FOR AIR QUALITY MANAGEMENT IN
NATIONAL CAPITAL REGION AND ADJOINING AREAS ORDINANCE, 2021 (NO. 4 OF 2021)
ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ,-



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 13th April, 2021/Chaitra 23, 1943 (Saka)

THE COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL REGION AND ADJOINING AREAS ORDINANCE, 2021

NO. 4 OF 2021

Promulgated by the President in the Seventy-second
Year of the Republic of India.

An Ordinance to provide for the constitution of the
Commission for Air Quality Management in National
Capital Region and Adjoining Areas for better co-ordination,
research, identification and resolution of problems
surrounding the air quality index and for matters connected
therewith or incidental thereto.

WHEREAS the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 was promulgated by the President on the 28th day of October, 2020; Ord.13 of 2020.

AND WHEREAS the Bill to replace the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 has not been passed;

AND WHEREAS the Commission constituted under section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 was operational, but ceased to exist on account of lapse of said Ordinance on the 12th day of March, 2021;

AND WHEREAS the continuance of the Commission is necessary for effective management of air quality in the National Capital Region and Adjoining Areas;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title,
application and
commencement.

1. (1) This Ordinance may be called the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021.

(2) It shall apply to the National Capital Region and also to adjoining areas in so far as it relates to matters concerning air pollution in the National Capital Region.

(3) It shall come into force at once.

Definitions.

2. (1) In this Ordinance, unless the context otherwise requires,—

(a) “adjoining areas” means the areas in the States of Haryana, Punjab, Rajasthan and Uttar Pradesh, adjoining the National Capital Territory of Delhi and the National

Capital Region, where any source of pollution is located, causing adverse impact on air quality in the National Capital Region;

(b) "Associate Member" means a member who is co-opted under sub-section (3) of section 3;

(c) "Chairperson" means the Chairperson of the Commission for Air Quality Management in National Capital Region and Adjoining Areas referred to in section 3;

(d) "Commission" means the Commission for Air Quality Management in National Capital Region and Adjoining Areas constituted under section 3;

(e) "Member" means a Member of the Commission and includes the Chairperson thereof;

2 of 1985. (f) "National Capital Region" shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985;

(g) "prescribed" means prescribed by rules made under this Ordinance.

26 of 1986. (2) The words used herein and not defined, but defined in the Environment (Protection) Act, 1986, shall have the meaning as assigned to them in that Act.

CHAPTER II

COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL REGION AND ADJOINING AREAS

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Commission for Air Quality Management in National Capital Region and Adjoining Areas to exercise the powers conferred upon, and to perform the functions assigned to, that Commission under this Ordinance.

Constitution of
Commission.

(2) The Commission shall consist of the following Members—

(a) a full-time Chairperson having special knowledge in

the field of environment protection or pollution control with experience of not less than fifteen years or having administrative experience of not less than twenty-five years;

(b) a representative of the Secretary to the Government of India in the Ministry of Environment, Forest and Climate Change, who shall be an officer not below the rank of Joint Secretary, *ex officio*;

(c) five *ex-officio* Members who are either Chief Secretaries, or Secretaries in-charge of the department dealing with environment protection in the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(d) one full-time member who is or has been a Joint Secretary to the Government of India;

(e) three full-time independent technical Members to be appointed from amongst persons having specific scientific knowledge and experience in matters relating to air pollution;

(f) one technical member from the Central Pollution Control Board, *ex officio*;

(g) one technical member to be nominated by the Indian Space Research Organisation, *ex officio*;

(h) three members from non-Governmental organisations having experience in matters concerning combating of air pollution;

(i) one representative of the National Institution for Transforming India, not below the rank of Joint Secretary or Adviser, *ex officio*;

(j) one officer in the rank of Joint Secretary to the Government of India to be appointed by the Central Government as a full-time Member-Secretary of the Commission;

(k) three members, being stakeholders from such sectors as agriculture, industry, transport or construction.

(3) The Commission may co-opt the following persons as Associate Members, namely:—

(a) a representative of the Ministry of Road Transport and Highways, not below the rank of Joint Secretary to the Government of India;

(b) a representative of the Ministry of Power, not below the rank of Joint Secretary to the Government of India;

(c) a representative of the Ministry of Housing and Urban Affairs, not below the rank of Joint Secretary to the Government of India;

(d) a representative of the Ministry of Petroleum and Natural Gas, not below the rank of Joint Secretary to the Government of India;

(e) a representative of the Ministry of Agriculture and Farmers' Welfare, not below the rank of Joint Secretary to the Government of India;

(f) a representative of the Ministry of Commerce and Industry, not below the rank of Joint Secretary to the Government of India;

(g) a representative of any association of commerce or industry;

(h) such other Associate Members, as may be prescribed.

(4) The Member-Secretary shall be the Chief Coordinating Officer of the Commission and shall assist the Commission in the discharge of its functions under this Ordinance.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in National Capital Region or Adjoining Areas.

(6) Notwithstanding anything contained in any other law for the time being in force, and notwithstanding any judgment or order of any court, the Commission shall have exclusive jurisdiction in the National Capital Region and Adjoining Areas in respect of matters covered by this Ordinance and no other body, authority, individual or committee shall have any power or jurisdiction in the matters

covered under this Ordinance:

Provided that the powers, functions and duties of the Commission shall not be in derogation of the powers, functions and duties of the Central Government, the Governments of the National Capital territory of Delhi and of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh, the Central Pollution Control Board, the State Pollution Control Boards of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh and the Pollution Control Committee of the State of Delhi:

Provided further that in case of any conflict in the orders or directions of the Commission and the Governments of the National Capital territory of Delhi and of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Central Pollution Control Board or the State Pollution Control Boards of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Pollution Control Committee of the State of Delhi or any other statutory authority set up or established under a State Act, the order or direction of the Commission shall prevail.

Appointment of
Chairperson,
Members and
Member-
Secretary.

4. (1) The full-time Chairperson and full-time Members, other than *ex officio* Members, of the Commission shall be appointed by the Central Government:

Provided that every appointment under this sub-section shall, subject to the provisions of second proviso, be made on the recommendations of a Selection Committee consisting of—

(a) Minister in-charge of the Ministry of Environment, Forest and Climate Change in the Government of India—Chairperson;

(b) Minister in-charge of the Ministry of Commerce and Industry in the Government of India — member;

(c) Minister in-charge of the Ministry of Road Transport and Highways in the Government of India — member;

(d) Minister in-charge of the Ministry of Science and Technology in the Government of India— member;

(e) Cabinet Secretary— member:

Provided further that in case where the Central Government appoints a serving officer as the Chairperson under clause (a) of sub-section (2) of section 3, or the full-time Member under clause (d) thereof, then, no recommendation of the Selection Committee shall be required.

(2) No appointment of the Chairperson or a Member shall be invalid merely by reason of any vacancy of any member in the Selection Committee referred to in sub-section (1).

(3) The appointment of the Member-Secretary of the Commission shall be made by the Central Government in such manner, subject to such terms and conditions, as may be prescribed.

5. (1) The full-time Chairperson or a Member, other than an *ex officio* member, may, by notice in writing under his hand addressed to the Central Government, resign his office.

Resignation
and removal of
Chairperson
and Members.

(2) The Central Government may remove the Chairperson or any member, other than an *ex officio* member, from his office, in such manner as may be prescribed, if such person--

(a) is adjudged an insolvent;

(b) engages during his term of office in any paid employment outside the duties of his office;

(c) is unfit to continue in office by reason of infirmity of mind or body;

(d) is of unsound mind and stands so declared by a competent court;

(e) has so abused his position as to render his continuance in office prejudicial to the public interest;

(f) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(g) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude:

Provided that no such Member shall be so removed,

unless he has been given an opportunity of being heard.

Term of office
of Chairperson
and Members.

6. The full-time Chairperson or a Member, other than an *ex-officio* member, shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier, and shall be eligible for re-appointment.

Member to act
as Chairperson
or to discharge
his functions in
certain
circumstances.

7. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of death, resignation or otherwise, the Central Government may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and
conditions of
service of
Chairperson and
Members.

8. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members, other than *ex officio* members, shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.

Vacancies, etc.,
not to invalidate
proceedings of
Commission.

9. No act or proceedings of the Commission shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

Procedure to be
regulated by
Commission.

10. (1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) Subject to the provisions of this Ordinance and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Chairperson in

this behalf.

(4) The Commission may, by general or special order, subject to such conditions and limitations, if any, as may be specified therein, delegate to the Chairperson, full-time member, Member-Secretary or any Sub-Committee constituted under section 11, such of its powers under this Ordinance (except the power to make regulations under section 25), as it may deem necessary or expedient for the purpose of protecting and improving the quality of the air in the Nation Capital Region and Adjoining Areas.

11. (1) The Commission shall have at least the following three Sub-Committees—

Sub-Committees and other staff of Commission.

- (a) Sub-Committee on Monitoring and Identification;
- (b) Sub-Committee on Safeguarding and Enforcement;
- (c) Sub-Committee on Research and Development.

(2) The Sub-Committee on Monitoring and Identification shall be headed by a Member of the Commission chosen by it and shall have the following additional members, namely:—

- (a) one representative from the Central Pollution Control Board;
- (b) one representative each from the State Pollution Control Board or Committee, as the case may be, of the National Capital territory of Delhi, Punjab, Haryana, Rajasthan and Uttar Pradesh;
- (c) one representative from the National Environmental Engineering Research Institute; and
- (d) such other members as may be specified by regulations.

(3) The Sub-Committee on Safeguarding and Enforcement shall be headed by the full-time Chairperson of the Commission and shall have the following additional members, namely :—

- (a) one representative each, not below the rank of Secretary from the department tackling air pollution from the National Capital territory of Delhi and the States of Punjab,

Haryana, Rajasthan and Uttar Pradesh;

(b) one representative each from the State Pollution Control Board or Committee, as the case may be, from National Capital territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(c) one officer not below the rank of Inspector General of Police or equivalent from the National Capital territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(d) such other members as may be specified by regulations.

(4) The Sub-Committee on Research and Development shall be headed by a full-time technical member of the Commission and shall have the following additional members, namely :-

(a) two technical representatives from the National Environmental Engineering Research Institute;

(b) one technical representative each from research institutions or Universities or colleges or organisations in the National Capital territory of Delhi and in the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(c) two technical representatives from the field of medicine and research working or studying on the impact of air pollution on living beings;

(d) such other members as may be specified by regulations.

(5) The Commission may also constitute such other Sub-Committees as it thinks fit.

(6) The members of the Sub-Committees, other than *ex officio* members, shall be paid such allowances as may be prescribed.

(7) The Central Government, in consultation with the Commission, shall determine the nature and the categories of officers and other staff required to assist the Commission in the discharge of its function and provide the Commission with such officers and employees as it may deem fit.

(8) The officers and other staff of the Commission shall discharge their duties and functions under the General Superintendence of the Chairperson.

(9) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (7) shall be such as may be prescribed.

CHAPTER III

POWERS AND FUNCTIONS OF THE COMMISSION

12. (1) Notwithstanding anything contained in any other law for the time being in force, the Commission shall have the power to take all such measures, issue directions and entertain complaints, as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas and shall also have the duty to take all such measures as may become necessary for protecting and improving the quality of the air in the National Capital Region and Adjoining Areas.

Powers and
functions of
Commission.

(2) In particular and without prejudice to the generality of sub-section (1), the Commission shall, for the purposes of sub-section (1), have the following powers to perform its duties, including taking measures to abate air pollution and to regulate or prohibit activities that are likely to cause or increase air pollution in the National Capital Region and Adjoining Areas, namely:—

(i) co-ordination of actions by the Governments of the National Capital territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh, officers and other authorities under this Ordinance or the rules made thereunder or under any other law for the time being in force, which is relatable to the objects of this Ordinance;

(ii) planning and execution of a programme for the region for the prevention, control and abatement of air pollution;

(iii) laying down parameters for the quality of air in its various aspects;

(iv) laying down parameters for emission or discharge of environmental pollutants from various sources whatsoever

that have implications on air quality in the region:

Provided that different parameters for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources that have implications on air quality in the region;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes, that have implications on air quality in the region, shall not be carried out or shall be carried out subject to certain safeguards;

(vi) carrying out and requiring investigations and research relating to problems of environmental pollution that have implications on air quality in the region;

(vii) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of air pollution in the region;

(viii) collection and dissemination of information in respect of matters relating to air pollution in the region;

(ix) preparation of manuals, codes or guides relating to the prevention, control and abatement of air pollution in the region;

(x) appoint officers, with prior approval of the Central Government, with such designations as it thinks fit for the purposes of this Ordinance and may entrust to them such of the powers and functions under this Ordinance or for the purposes of achieving the objects of this Ordinance as it may deem fit.

(xi) issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

(3) (a) Subject to the provisions of this section, any person authorised by the Commission in this behalf shall have a right to enter, at all reasonable times and with such assistance as he considers necessary, any place, for the purpose of —

(i) performing any of the functions of the Commission entrusted to him;

(ii) determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Ordinance or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Ordinance is being or has been complied with;

(iii) examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reasons to believe that an offence under this Ordinance or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence of the Commission of an offence punishable under this Ordinance or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.

(b) every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Commission under clause (a) for carrying out the functions under that clause and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Ordinance.

(c) if any person willfully delays or obstructs any person authorised by the Commission under clause (a) in the performance of his functions, he shall be guilty of an offence under this Ordinance.

(d) the provisions of the Code of Criminal Procedure, 1973 shall apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law. 2 of 1974.

(4) (a) The Commission or any officer authorised by it in this behalf, shall, for the purpose of analysis, have power to take samples of air from any factory, premises or other place in such manner as may be prescribed.

(b) the result of any analysis of a sample taken under clause (a) shall not be admissible in evidence in any legal proceeding unless the provisions of clauses (c) and (d) are complied with.

(c) subject to the provisions of clause (d), the person taking the sample under clause (a) shall,—

(i) serve on the occupier or his agent or person in charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(ii) in the presence of the occupier or his agent or person, collect a sample for analysis;

(iii) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(iv) send without delay, the container or the containers to the laboratory established or recognised by the Central Government;

(d) when a sample is taken for analysis under clause (a) and the person taking the sample serves on the occupier or his agent or person, a notice under sub-clause (i) of clause (c), then,—

(i) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the

sample; and

(ii) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and sealed container or containers of the sample as required under sub-clause (iii) of clause (c), the marked and sealed container or containers shall be signed by the person taking the samples,

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised by the Central Government and such person shall inform the Government Analyst appointed or recognised, about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers.

(5) In discharge of its functions and exercising of its authority, the Commission and the Sub-Committees mentioned in section 11 shall be bound by such general or specific directions of the Central Government, as may be issued from time to time.

(6) For removal of doubts, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, and notwithstanding any judgment or order of any court, and subject to the provisions of this Ordinance, the Commission shall have exclusive jurisdiction in respect of matters covered by this Ordinance and no other body or authority or committee or individual shall have any power or jurisdiction in that matter.

(7) In particular and without prejudice to the generality of the foregoing provisions, the Commission shall perform all or any of the following functions, namely:—

(a) take up matters *suomotu*, or on the basis of complaints made by any individual, representative body or organisation functioning in the field of environment, against any individual, association, company, public undertaking or local body carrying on any industry, operation or process;

(b) provide the mechanism and the means to implement in the National Capital Region and Adjoining Areas –

- (i) the National Clean Air Programme;
- (ii) the National Air Quality Monitoring Programme;
- (iii) the National Ambient Air Quality Standards;
- (c) provide an effective framework and platform in the National Capital Region and Adjoining Areas for –
 - (i) source identification of air pollutants on a periodic basis;
 - (ii) taking on-ground steps for curbing air pollution;
 - (iii) specific research and development in the field of air pollution;
 - (iv) synergising the energies and efforts of all stakeholders in developing innovative ways to monitor, enforce and research on the issues concerning air pollution;
 - (v) building a network between technical institutions working or researching in the field of air pollution;
 - (vi) international co-operation including sharing of international best practices in the field of air pollution;
 - (vii) training and creating a special work-force for tackling the problem of air pollution;
- (d) provide an effective frame work, action plan and take appropriate steps for –
 - (i) tackling the problem of stubble burning;
 - (ii) monitoring, assessing and inspecting air polluting agents;
 - (iii) increasing plantation;
- (e) monitoring the measures taken by the States to prevent stubble burning;
- (f) undertake and promote research in the field of air pollution;
- (g) spread awareness regarding air pollution among various sections of society and promote awareness of the collective steps that the public may take through publications, the media, seminars and other available means;
- (h) encourage the efforts of non-governmental

organisations and institutions working in the field of air pollution;

(i) any other functions as have been entrusted to any *ad hoc* committee or commission or task force or body formed for the purpose of dealing with issues concerning air pollution, stubble burning or the monitoring of related factors, in pursuance of any judicial order passed for the time being in force;

(j) such other functions as it may consider necessary for the prevention of air pollution in the National Capital Region and Adjoining Areas.

13. (1) The Commission shall furnish to the Central Government an annual report containing such details of the steps taken, proposals made, researches awaited and other measures undertaken by it in pursuance of its functions under section 12, in such form and manner as may be specified by regulations. Annual report.

(2) The Central Government shall cause the annual report furnished under sub-section (1) to be laid before each House of the Parliament.

14. (1) Any non-compliance or contravention of any provisions of this Ordinance, rules made thereunder or any order or direction issued by the Commission, shall be an offence punishable with imprisonment for a term which may extend upto five years or with fine which may extend upto one crore rupees or with both. Penalty for contravention of provisions of Ordinance, rules, order or direction.

Provided that the provisions of this section shall not apply to any farmer for causing air pollution by stubble burning or mismanagement of agricultural residue.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under this Ordinance shall be non-cognizable and shall be triable by the Judicial Magistrate of the First Class who shall not take cognizance of the offence except upon a complaint made by the Commission or any officer authorised by the Commission in this behalf.

(3) Where any offence under this Ordinance has been committed by a company, every person who, at the time the

offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Ordinance, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(4) Notwithstanding anything contained in sub-section (3), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of sub-sections (3) and (4),—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

(5) Where an offence under this Ordinance has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(6) Notwithstanding anything contained in sub-section (5), where an offence under this Ordinance has been committed

by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

2 of 1974. (7) For the purpose of this section and the procedure to be followed thereunder, the provisions of the Code of Criminal Procedure, 1973, shall apply.

15. The Commission may impose and collect Environmental Compensation from farmers causing air pollution by stubble burning, at such rate and in such manner, as may be prescribed.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

16. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.

Grants by
Central
Government.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Ordinance, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

17. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same

rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

Appeal.

18. An appeal shall lie only to the National Green Tribunal constituted under the National Green Tribunal Act, 2010 against any order, direction or action taken by or on behalf of the Commission constituted under section 3 of this Ordinance. 19 of 2010.

Constitution of special investigation teams.

19. Notwithstanding anything contained in any other law for the time being in force or any judicial order by any Court, where the Commission considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such officers or such persons, as it thinks necessary, for purposes of carrying out its functions under this Ordinance.

Power of Central Government to issue direction.

20. Notwithstanding anything contained in any other law for the time being in force, but subject to the provision of this Ordinance, the Central Government may issue in writing such direction, as it deems fit, to the Commission or any person, officer or authority authorised by the Commission, and the Commission, person, or authority, as the case may be, shall be bound to comply with such direction.

Power of Central Government to call for information.

21. The Central Government may, from time to time, call for such information and reports from the Commission, as it deems fit and the Commission shall be bound to provide such information and report.

22. No civil court shall have jurisdiction to entertain any suit, proceeding or dispute pertaining to or arising out of the actions taken or directions issued by the Commission in respect of any matter which the Commission is empowered by or under this Ordinance, except the National Green Tribunal referred to in section 18.

Bar of jurisdiction.

23. No suit or other legal proceeding shall lie against the Central Government, the State Government, the Commission, or any Member thereof, or any person acting under the direction either of the Central Government, State Government, or the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or any order made thereunder.

Protection of action taken in good faith.

24. Every Member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members and officers to be public servants.

45 of 1860.

25. (1) The Central Government may, by notification, make rules to carry out the provisions of this Ordinance.

Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the other Associate Members under clause (h) of sub-section (3) of section 3;

(b) the manner of removal of Chairperson or a Member under sub-section (2) of section 5;

(c) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (1) of section 8;

(d) the allowance payable to the members, other than *ex officio* members of the Sub-Committees, under sub-section (6) of section 11;

(e) the appointment of such officers and other staff under sub-section (7) of section 11;

(f) the salaries, allowances and conditions of service of the officers and other staff under sub-section (9) of section 11;

(g) the manner of taking samples under clause (a), and the form of notice under sub-clause (i) of clause (c), of sub-section (4) of section 12;

(h) the rate at which, and the manner in which, the Environmental Compensation shall be imposed and collected under section 15;

(i) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 17;

(j) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of
Commission to
make
regulations.

26. (1) Subject to the provisions of this Ordinance and the rules made thereunder, the Commission may, with the previous approval of the Central Government, by notification, make regulations to carry out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure to be followed by the Commission under sub-section (2) of section 10;

(b) the conditions and limitations subject to which power may be delegated by the Commission under sub-section (4), of section 10;

(c) the members of each Sub-Committee under sub-sections (2), (3) and (4) of section 11;

(d) the form and the manner of furnishing annual report under section 13;

(e) any other matter which has to be, or may be, specified by regulations.

(3) Every regulation made by the Commission under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

27. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient for removing the difficulty.

Power to
remove
difficulties.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

28. (1) The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, any document, judgement, order, bye-law, rule, regulation, notification having the force of law in the territory of India.

Ordinance to
have
overriding
effect.

(2) Notwithstanding anything contained in any other law for the time being in force or any judgement or any order of any Court and subject to the provisions of this Ordinance, upon the notification of the constitution of the Commission under section 3, no other individual or body or authority

constituted either under a law enacted by Parliament, or by a State, or appointed or nominated in terms of any judicial order, shall act upon or have jurisdiction in relation to the matters covered by this Ordinance.

Repeal and
savings of order
constituting
Environment
Pollution
(Prevention and
Control)
Authority for
National Capital
Region.

29. (1) The Order made under section 3 of the Environment (Protection) Act, 1986 constituting the Environment Pollution (Prevention and Control) Authority for the National Capital Region vide notification number S.O.93(E), dated the 29th January, 1998 is hereby repealed and the Environment Pollution (Prevention and Control) Authority for the National Capital Region is hereby dissolved. 29 of 1986.

(2) Notwithstanding such repeal, anything done or any action taken by the Environment Pollution (Prevention and Control) Authority for the National Capital Region under the said Order, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Savings.

30. Notwithstanding the cessation of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020, anything done or any action taken under the Ordinance so ceased, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance. Ord. 13 of 2020.

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ, ಸೋಮವಾರ, ೨೭, ಡಿಸೆಂಬರ್, ೨೦೨೧

ಭಾಗ ೪

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

(ಆರ್. ಶ್ರೀನಿವಾಸ)
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು
ಶಾಸನ ರಚನೆ ಇಲಾಖೆ

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